

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

**MONROE GROCERY, INC. and
FRANCISCO TAVAREZ**

Plaintiffs

v.

**UNITED STATES OF AMERICA,
GILDA TORRES, and SONNY
PERDUE**

Defendants

CIVIL ACTION NO. 3:17-922

**(MANNION, D.J.)
(SCHWAB, M.J.)**

ORDER

In accordance with the court's memorandum issued this same day, **IT IS HEREBY ORDERED THAT:**

- (1)** Judge Schwab's Report ([Doc. 40](#)) is **ADOPTED IN ITS ENTIRETY**;
- (2)** The Government's objections ([Doc. 43](#)) are **OVERRULED**;
- (3)** The Government's motion to dismiss ([Doc. 18](#)) is **GRANTED IN PART** and **DENIED IN PART**;

- a.** The Government's motion to dismiss plaintiffs' claims seeking damages against defendants, in their official capacities is **GRANTED**, and such claims are **DISMISSED WITH PREJUDICE**;

b. The Government's motion to dismiss plaintiffs' equal protection claims is **DENIED**.

c. The Government's motion to dismiss plaintiffs' substantive due process claim is **GRANTED**, and such claims are **DISMISSED WITHOUT PREJUDICE**; however, plaintiffs are **GRANTED** leave to file a second amended complaint by **March 6, 2019**.

(4) This matter is **REMANDED** to Judge Schwab for further proceedings.

s/ Malachy E. Mannion

MALACHY E. MANNION
United States District Judge

DATE: February 20, 2019

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